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15 *Antonio J. Gracias, James Murdoch, Kimbal Musk,*

and Linda Johnson Rice

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18
19 IN RE TESLA, INC. SECURITIES
20 LITIGATION

Case No. 3:18-cv-04865-EMC

21 **DEFENDANTS' FILING OF DEPOSITION**
22 **DESIGNATIONS AND IMPEACHMENT**
23 **CLIPS PLAYED DURING TRIAL**
24
25
26
27
28

1 During trial in the above captioned action, Defendants played portions of videotaped
2 depositions. The trial court reporters indicated that they do not transcribe the videos and similarly
3 do not attach transcripts of the testimony played in the videos to the court reporters' daily trial
4 transcripts. Accordingly, to create a complete record, Defendants have attached hereto transcripts
5 of the deposition designations and impeachment clips Defendants played at trial:

- 6 • Exhibit A hereto: Excerpts from the deposition of Glen Littleton
- 7 • Exhibit B hereto: Excerpts from the deposition of Timothy Fries
- 8 • Exhibit C hereto: Excerpts from the deposition of Nii Koney

9 DATED: February 3, 2023

Respectfully submitted,

10 QUINN EMANUEL URQUHART & SULLIVAN, LLP

11 By: /s/ Alex Spiro

12 Alex Spiro (appearing *pro hac vice*)

13
14 *Attorneys for Tesla, Inc., Elon Musk, Brad W. Buss,*
15 *Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias,*
16 *James Murdoch, Kimbal Musk, and Linda Johnson Rice*

Exhibit A

1
2
3 UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA

5 Case No. 18-cv-04856-EMC

6 :
7 :
8 :
9 :
10 :
11 IN RE: TESLA, INC., SECURITIES :
12 LITIGATION :
13 :
14 :
15 :

16 -----
17 DEPOSITION UNDER ORAL EXAMINATION OF:
18 GLEN LITTLETON
19 March 31, 2022
20 -----

21 REPORTED BY: JENNIFER L. WIELAGE, CCR, RPR, CRR
22 -----
23
24
25

JOB # 12108

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Q. Sure. You told us previously that
prior to that August 24 blog post, that you didn't

1 see anything between August 7th and August 24th that
2 changed your mind that the go-to private transaction
3 at 420 per share was a done deal?

4 A. No, that's --

5 Q. Is that right?

6 A. That's correct, yes.

7 Q. Is it also correct that you didn't
8 see anything then prior to August 24th that changed
9 your mind that the funding was secure?

10 [REDACTED] [REDACTED]
11 [REDACTED]
12 A. You know, I can't recall. I really
13 don't recall. There was an awful lot of news about
14 it. There were an awful lot of opinion pieces. And
15 sometimes it's hard to separate these opinion, pieces
16 in the Wall Street Journal and the Bloomberg, from a
17 report -- a reporting article. So I can't recall.

18 Q. Would you have thought that the go-to
19 private transaction at 420 per share was a done deal
20 if you did not think funding was secure?

21 [REDACTED] [REDACTED]
22 A. I wish -- you're doing your job.
23 You're trying to ask a question in many different
24 ways.

25 I revert back to my talking points --

5 Q. Why did you refer to that as your
6 talking points?

7 A. Because that's what I based all of my
8 decisions on.

This is a high-contrast, black-and-white photograph featuring numerous small, dark, rectangular objects scattered across a light background. These objects, which appear to be seeds or grains, are arranged in various patterns: some form long horizontal rows, others are grouped into clusters, and many are isolated. The perspective is from directly above, creating a top-down view of the distribution. The overall composition emphasizes the repetition and arrangement of these tiny elements.

Exhibit B

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 In Re: Tesla, Inc., Securities)
5 Litigation.) No. CV-18-04865-EMC
6)
7 _____

8
9
10 September 23, 2022

11 11:16 a.m.

12 Flemington, New Jersey
13

14 REMOTE VIDEOTAPE DEPOSITION OF
15 TIMOTHY FRIES (On behalf of Plaintiffs)
16

17 Taken on behalf of the Defendant before
18 Michael J. D'Amato, RMR, Notary Public in and for the
19 State of Florida at Large, pursuant to Notice of Taking
20 Deposition in the above cause.
21
22
23
24

25 Job # 217595

1

25

Q. Now, I talked to you about what you thought

1 as to whether or not that company had actually made a
2 commitment to provide the funding to take Tesla private
3 for 420?

4 A. I didn't consider that.

5 Q. So the way you understood this is that Tesla
6 and Mr. Musk had vetted to make sure that the company
7 had the financial ability to take Tesla private but --

8 A. And that -- ok, go ahead.

9 Q. -- but that -- but it wasn't saying that that
10 company had necessarily committed to making that
11 investment?

12 [REDACTED]
13 A. My understanding was that they had an interest
14 in purchasing Tesla to take them private and they had
15 the financial means to do that.

16 Q. You said your understanding was that the
17 company had an interest in purchasing Tesla to take
18 them private and they had the financial means to do
19 that. Did you take from this Tweet, Exhibit 8 here,
20 that that company had already made the commitment to do
21 that, that is, not only do we have the interest and the
22 means but we are going to do it?

23 [REDACTED]
24 A. I believe -- my understanding was they were
25 committed to doing it.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 Q. I guess what I want to narrow down is, you
10 said this a few times and I want to see if this Tweet
11 meant anything else to you. You said and I'm
12 reading -- I have a transcript of what you just said
13 here, it is called real time.

14 "My thinking is for the funding to be secured
15 that they would have expressed a strong interest and
16 they would have been vetted by Tesla and Tesla would
17 have come to the understanding that those funds were
18 available."

19 Did this Tweet mean anything else to you with
20 respect to whether or not the company that was going to
21 provide funding had actually made the commitment to do
22 so?

[REDACTED]

24 A. No, it didn't mean much more than what I've
25 already explained.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 Q. If as of August 7th, the time of that Tweet,
9 Exhibit 8, as of that time the board of directors was
10 still in the process of taking steps to evaluate the
11 proposal to take Tesla private at 420, would that in
12 your mind make the statements in that Tweet false or
13 misleading?

14 A. I don't think so.

15 Q. Why not?

16 A. Because it hadn't been closed yet.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exhibit C

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 IN RE TESLA, INC., Civil Action No.
5 SECURITIES LITIGATION 3:18-cv-04865-EMC
6

7 CONFIDENTIAL

8 Virtual Videotape Zoom Deposition
9 Of Nii Owuraka Koney
10 July 14, 2021
At 10:00 a.m.
11
12
13
14
15
16
17
18
19
20
21

22 Reported by LeShaunda Cass-Byrd, CSR, RPR
23 TSG Job No. 196498
24
25

[REDACTED]

[REDACTED]

3 NII OWURAKA KONEY,
4 having been first duly sworn, was examined and
5 testified as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Can you please just state your full name
14 for the record?

15 A. Nii Owuraka Koney.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 Q. Okay. So you worked at Jennison since
21 2007, 2008?

22 A. Yes. Yes, 2007.

23 Q. Okay. And what is your of current position
24 at Jennison?

25 A. I am a managing director in the research

1 department.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 Q. Okay. In the tweet contained here in
21 Exhibit 8, the second sentence, it says funding
22 secured.

23 Do you see that there?

24 A. Yes.

25 Q. Do you recall what your understanding of

1 what funding secured meant when you first read this
2 tweet?

3 A. It was not clear to me what funding secured
4 meant. It wasn't clear whether it was a verbal
5 commitment or whether they had an offer letter of some
6 sort.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15 Q. So what would be the difference between a

16 verbal commitment and an offer letter?

[REDACTED]

[REDACTED]

19 THE WITNESS: Again, I -- again, like

20 my general view was that the money was out

21 there for them to go private. I mean, just

22 cash among the sovereign world funds and a

23 bunch of investment funds that invest in

24 private companies. And so I wanted to know

25 what that source of funding was. That was

1 the basis of my question.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 Q. What I'm trying to get at is you -- you've
10 testified that there was a lot of, you know, cash out
11 there and still is for potential investment in a
12 private company; is that fair?

13 A. Yes.

14 Q. And what -- what extra information on top
15 of that fact is -- are the words "funding secured"
16 from Mr. Musk adding to that did you -- did you think
17 at the time on August 7th, 2018?

18 A. Well, I wasn't sure what it meant, which is
19 why I inquired as to whether there was a verbal
20 commitment or whether there was an actual offer letter
21 that they had.

22 Q. And to go back, would it make a difference
23 to you if it was a verbal commitment versus an offer
24 letter?

25 A. It's hard to say within the context of just

1 how much cash is available out there. I was never
2 concerned about their ability to go private.

3 Again, my view -- I have a very strong view
4 that they should stay public, that they should not go
5 private.

6 Q. If you go back to Exhibit 58, please, and
7 you -- there is an e-mail -- the next e-mail chain up
8 on the chain is, again, from Martin Viecha. And it
9 says: The very first tweet simply mentioned, quote,
10 funding secured, close quote, which means that this is
11 a firm offer.

12 Do you see that?

13 A. Yes.

██
██
██

17 Q. So then you -- then you continue in Exhibit
18 58: The firm offer means there is a commitment
19 letter, or is this a verbal agreement?

20 Do you see that?

21 A. Yes.

22 Q. Again, does this confirm or refresh your
23 recollection that you had a difference in your mind
24 between a commitment letter or a verbal agreement?

25 A. I think, again, it was just me trying to

1 get clarification on what firm offer means.

8 Q. What did you understand Mr. Viecha's
9 statement "the offer is as firm as it gets" to mean?

10 A. As you can see in my reply to him, I said
11 we will need a little more than that, which means I
12 had no idea what he meant.

13 Q. What is your understanding of a firm offer
14 of funding?

17 THE WITNESS: Again, I wasn't clear
18 whether they defined a firm offer as a
19 commitment letter or verbal agreement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 MR. PORRITT: Okay. All right. Can
11 we bring up JENN 90, Elizabeth?

12 MS. TRIPODI: It should be there.

13 (Plaintiff Exhibit 61 was marked for
14 identification.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5 Q. Okay. So the bottom e-mail on Exhibit 61
6 is an e-mail from Mr. Baribeau to you stating: Hi,
7 should we be selling here? The story could unravel
8 quickly if Elon is found to be lying about the, quote,
9 secured, close quote, financing for buyout.

10 Do you see that?

11 A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q. Okay. So you got -- Mr. Baribeau responds
11 back to you: Assuming he has the funding, yes, but
12 there is no evidence of that.

13 Do you see that?

14 A. Yes.

15 Q. Did you believe there was no evidence of
16 funding as of 9:36 a.m. on August 9th, 2018 in
17 connection with the potential Tesla go-private
18 transaction?

[REDACTED]

20 THE WITNESS: In my reply, I said
21 they haven't disclosed a source of funding
22 yet, very different from no evidence of
23 funding.

[REDACTED]

25 Q. So you disagreed with Mr. Baribeau on that

1 point?

2 A. What I was trying to highlight is that --
3 and to the earlier back and forth I had with Martin
4 Viecha -- is trying to figure out what that source of
5 funding was within the context of knowing that there
6 is so much cash out there on the market available to
7 take them private.

8 Q. So you say: What we have is Elon's
9 statement on funding secured.

10 Do you see that?

11 A. Yes.

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 Q. Was it important to you that the CEO of
21 Tesla had said that funding was secured publicly?

22 A. Yes.

23 Q. And then you have here: Which IR confirmed
24 is accurate.

25 Do you see that?

6 What is your understanding of what -- well,
7 what do you mean when you say verbal agreement?

8 A. That he has spoken to someone, or investors
9 who have said they would be willing to take Tesla
10 private, and for him -- again, this is my assumption.
11 As I stated in this e-mail, it's an assumption upon an
12 assumption, so there's a lot of uncertainty. And --
13 and so I just wanted to get -- that's why I wanted to
14 get some clarity on what I wasn't sure about.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q. And it's your view that it's potentially
12 premature for Mr. Musk to announce the potential
13 transaction?

[REDACTED]

15 THE WITNESS: That's a tough one
16 because I don't think Elon -- Elon could
17 have approached Jennison before making it
18 public, that he wanted to take Tesla
19 private, because that would have exposed us
20 to MNPI, material nonpublic information,
21 which would have restricted our ability to
22 trade the stock. And so if the -- if the
23 plan was to have shareholders hold onto
24 their stock in a private company, the only
25 way to do it is to make it public to

1 everyone that this is what he wants to do
2 before engaging with us. We would not have
3 engaged with him beforehand.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5 All right. So I placed before the
6 witnesses, a document marked as Exhibit 66.
7 (Plaintiff Exhibit 66 was marked for
8 identification.)

9 BY MR. PORRITT:

10 Q. It's Bates stamped SEC-EPROD-000009476. It
11 also has JENN 000001 in the bottom right-hand corner.

12 Do you recognize this document, Exhibit 66,
13 Mr. Koney?

14 A. Yes.

15 Q. What is this document?

16 A. It looks like notes -- I'm a terrible note
17 taker by the way -- that I took on the call with Elon.

18 Q. So these are notes that you typed at the
19 time?

20 A. Yes.

21 Q. Okay. And you typed them while
22 participating in the call or afterwards?

23 A. I cannot say with certainty, but I believe
24 it would have been during the call. But I can't say
25 that with absolute certainty.

1 Q. Okay. If you made them afterwards, would
2 it be shortly after the call?

3 A. Yes.

4 Q. Okay. And then what is the purpose of you
5 taking these notes?

6 A. To memorialize the discussion.

7 Q. Okay. Did you take notes every time you
8 spoke to the CEO of a portfolio company that you
9 follow?

10 A. Most of the time. I can't say all of the
11 time.

12 Q. Okay. But it's your general practice to do
13 that?

14 A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24 Q. Okay. What do you recall Mr. Musk telling
25 you during this call?

1 Well, strike that.

2 How did the call start?

3 A. Based on my notes, it seems like the call
4 started with Elon explaining his reasons for wanting
5 to take Tesla private.

6 Q. All right. Is that what you recall --
7 first of all, do you have any -- sitting here today,
8 do you have any recollection of this call?

9 A. I mean, yes. I remember doing the call. I
10 don't remember all of the details of the call outside
11 of the notes that I have.

12 Q. Okay. After having reviewed these notes --
13 have you had a chance -- have you read all of your
14 notes is Exhibit 66 now?

15 A. I have skimmed through most of it, you
16 know, as I've been speaking.

17 Q. Why don't you just take a moment, just
18 to -- why don't you just read it from the top to
19 bottom. It's only one page, and then we'll see if
20 that refreshes any recollection about what you recall
21 about the call.

22 A. Okay. I have read it.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. In the next section there in Exhibit 66,

13 you've got a reference there to SWF?

14 A. Yes.

15 Q. SWFs, small s.

16 A. Yes.

17 Q. What's SWF referring to?

18 A. Sovereign World Fund.

19 Q. Okay. So you continue: Wouldn't want to

20 have too big a stake from one or two funds as they may

21 push Tesla to optimize for their country rather than

22 the world.

23 Do you see that?

24 A. Yes.

25 Q. So that reflects comments made by Mr. -- by

[REDACTED]

18 Q. And then you on saying: Getting to a scale
19 where it would be difficult to take the company
20 private. Last opportunity.

21 Do you see that?

22 A. Yes.

23 Q. What -- what was -- what did Mr. Musk say
24 that led you to write these notes?

25 A. He must have said something to that extent,

1 which actually aligned with my view that they had the
2 funding available to go private at the \$70 billion
3 valuation but at a higher price, significantly higher
4 price, they would have the funding available to go
5 private.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q. So was it your understanding, after this
15 conversation with Mr. Musk, on August 10th, 2018, that
16 they did have the funds to make it possible at an
17 approximately \$70 billion valuation but not if it went
18 higher?

19 A. It was my view that they had the capacity
20 to get those funds. And as I -- as I have expressed
21 early, I think there was also a New York Times article
22 that came out that pointed out that they did have the
23 capacity to get the funds to take Tesla private around
24 that valuation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15 Backing you, can you explain what it is
16 that Jennison Associates does?

[REDACTED]

[REDACTED]

[REDACTED]

20 THE WITNESS: Okay. We are an asset
21 manager. So on a large track growth team,
22 we have a mandate to invest in growth
23 companies. And so we have a team of
24 portfolio managers and analysts. Analysts
25 cover specific sectors, and they are

1 responsible for finding companies within
2 their specific coverage that meets the
3 mandate.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Q. So just to put it in simpler terms,
14 Mr. Koney, am I correct that Jennison Associates
15 invests money on behalf of its clients?

16 A. Yes.

17 Q. And as an analyst, your role is to try to
18 help the portfolio managers make decisions about what
19 stocks to buy and sell and when in an effort to
20 maximize returns; is that correct?

21 A. Generally speaking, yes.

22 Q. Okay. And in other words, your job is to
23 try as best you can, to predict whether a given stock
24 is going to go up or down over the long term; is that
25 fair?

1 A. Yes.

2 Q. Okay. It's not easy to do, is it?

3 A. Not at all.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 Q. Okay. Let me ask you to turn to Exhibit
14 68. It's the one that is labeled JENN 147.

15 A. I have it up.

16 Q. This is your e-mail forwarding the August
17 13th, 2018 blog post by Mr. Musk?

18 A. Uh-huh (affirmative).

19 Q. When you were speaking to go Mr. Porritt
20 earlier, you -- you wanted to make the point I think
21 that your point about buying more shares at these
22 levels was based on the current price level and your
23 long-term views about the business. It was not based
24 on the blog post.

25 Did I understand that correctly?

1 A. Yes, it was not based on the blog post.

20 And I think you testified earlier that
21 nothing in this blog post changed your view about the
22 likelihood of a going-private transaction occurring;
23 is that fair?

25 THE WITNESS: Yes. My view on the

1 likelihood of a go-private transaction was
2 not -- was not influenced by -- that's the
3 wrong word. I already viewed -- I already
4 believed that Tesla had the capacity to go
5 private at that price point. I was just
6 adamantly opposed to them going private.

7 BY MR. GIBBS:

8 Q. Understood. And so to put a finer point on
9 it, nothing in this August 13th blog post changed your
10 view about the likelihood or the ability of Mr. Musk
11 to arrange financing for a take-private transaction at
12 a price of \$420 per share; is that correct?

13 A. I can't give a -- I can't say definitively,
14 I was not influenced in any way by this blog post. My
15 view prior to this blog post was that they had the
16 capacity to do it and also enough cash available for
17 them to go through -- to take the company private. I
18 can't go back -- I don't remember my thinking during
19 that period after I read this blog post, what my
20 immediate reaction was. What I do know with certainty
21 was that I had that view before this blog post.

22 Q. Okay. So let me -- let me just try a
23 slightly different word and see if I can get it right.

24 Immediately after Mr. Musk's August 7th
25 tweet about considering taking Tesla private at a

1 price of \$420 per share, you believed that there would
2 be funding available for such a transaction; is that
3 fair?

4 [REDACTED]
5 THE WITNESS: Yes.

6 BY MR. GIBBS:

7 Q. And nothing in this August 13th blog post
8 changed your view about the availability of funding
9 for such a transaction; isn't that fair?

10 A. Again, my view did not change, so that is
11 accurate. What I don't remember is if this gave me
12 higher conviction that the funding was available, if
13 that makes any sense.

14 Q. It does.

15 And so this might have made it seem even
16 more likely that funding was available, but it
17 certainly didn't make it seem less likely that funding
18 was available; is that fair?

19 A. Yes. I can definitely say that reading
20 this blog post did not make me think it was less
21 likely -- did not make me think it was less likely
22 funding was available.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q. And -- and you understood, too, that there
15 were many different reasons why a transaction at this
16 very early stage in the process might end up not
17 closing, correct?

18 A. Yes, I understood that it was not
19 guaranteed to close.

20 Q. Okay. And in fact, this transaction never
21 came to fruition.

22 Do you have any information suggesting that
23 the reason this transaction did not ultimately close
24 was because of a lack of funding?

[REDACTED]

1 THE WITNESS: I do not have any such
2 information.

[REDACTED]

REPORTER'S CERTIFICATE

I, LESHAUNDA CASS-BYRD, CSR No. B-2291, RPR, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony of the witness, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes to taken.

I further certify that I am not a relative or employee of any attorney or the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of North Carolina that the foregoing is true and correct.

Dated this July 27, 2021.

Lashaunda Byrd

LESHAUNDA CASS-BYRD, CCR-B-2291, RPR